

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation

CASE NO: 8:10ML02151 JVS(FMOx)

This document relates to:

ORDER NO. 11: SCHEDULING

ALL CASES

This Order memorializes the actions which the Court took at the January 14, 2011 Status Conference.

I. Overview.

The Court announced its intent to hold the first trial in this proceeding in the first quarter of 2013 and the second trial in the second quarter of 2013.¹ The

¹The Court relies on the parties' stated desires at the December 9, 2011 status conference to have this Court try the initial cases, and the Court assumes that any issue concerning trial of a case not filed in the Central District of California would be resolved by agreement.

1 Court leaves for further discussion whether one of those trials will be a trial of
2 economic-loss class claims. Consistent with this schedule, the Court orders the
3 parties:

4

- 5 • To submit a list of three to five bellwether cases from which the
6 initial trials will be drawn no later than April 21, 2011. Within 30
7 days, the parties shall submit a proposal for selecting the bellwether
8 cases. The selection of the bellwether cases assumes that the Toyota
9 defendants timely produce fact sheets for the individual plaintiffs, and
10 counsel for the Toyota defendants assured the Court that this would be
11 done.
- 12 • To submit a Phase III Discovery Plan no later than April 21, 2011.
13 The Plan will cover all remaining pretrial matters leading to the 2013
14 trials. Each side may submit a supporting memorandum of no more
15 than ten pages. Phase III will commence May 1, 2011.

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17 The Court will hold a status conference on April 29, 2011, 3:00 p.m. to discuss the
18 Phase III Plan and related matters leading to the 2013 trials.

19

20 II. Specific Pretrial Issues.

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22 To assist the parties in finalizing outstanding proposed orders
23 concerning the Phase II Discovery Plan and other matters, the Court addressed a
24 number of discrete issues during the hearing.

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26 A. Phase II Discovery.

1 Individual case discovery in Phases II and III shall be limited to the
2 bellwether cases with two exceptions. The Toyota defendants may conduct an
3 independent medical examination (“IME”) (Fed. R. Civ. P. 35) of any personal
4 injury claimant.² The Toyota defendants may conduct discovery in individual
5 cases where there is a particularized urgency to take the discovery now. To the
6 extent the parties are unable to agree on such discovery, disputes shall be submitted
7 to the Special Masters.

8 The Toyota defendants shall not be required to cause production by
9 third parties, such as Toyota dealers and Toyota vendors.

11 Before an individual plaintiff is deposed, the Toyota defendants shall
12 make document production relevant to that plaintiff’s case. The parties shall meet
13 and confer concerning specific procedures. Such procedures should include a
14 “safety valve” for use of a small number of documents belatedly but in good faith
15 identified. The Court also invites the parties to discuss advance production for all
16 depositions.

18 Domestic depositions shall be noticed thirty days in advance, and
19 foreign depositions shall be noticed forty-five days in advance.

21 The depositions of English speakers shall be limited to 7 1/2 hours
22 with one hour allocated to counsel in the state cases, and depositions of non-
23 English speakers shall be limited to 12 hours with 1 1/2 hours allocated to counsel
24 in state cases. Each non-English speaking deponent shall reserve an additional

26 ²Assuming agreement on the particulars of an IME, no further application to the Court is
27 required to proceed.

1 succeeding day beyond the estimated length of the deposition. The parties shall
2 meet and confer, preferably in advance, where one party believes that additional
3 time should be allowed. Any dispute concerning the length of a deposition shall be
4 submitted to the Special Masters.

5
6 As part of document production, the Toyota defendants shall produce
7 any English translations of Japanese documents made in the normal course of
8 business. The Toyota defendants are not required to produce documents translated
9 at the request of counsel. The parties shall meet and confer concerning procedures
10 for using documents translated at the request of counsel in depositions and at trial.

11
12 The Toyota defendants shall respond to the plaintiffs' Requests for
13 Production Nos. 3, 4, and 5 as part of the Phase III Plan. Timing for these
14 productions shall be addressed in the Phase III Plan.

15
16 Production of sales and marketing material shall commence on a
17 rolling basis in Phase II and shall be completed in Phase III.

18
19 Production of documents concerning the approximately 37,000
20 reported incidents shall commence on a rolling basis in Phase II and shall be
21 completed in Phase III.³ As the Court has previously ordered with regard to the
22 production of documents produced to various Congressional and Government
23 entities, the production shall be subject to the Federal Rules of Civil Procedure and
the Federal Rules of Evidence.

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25
26 ³At the hearing, the Toyota defendants indicated that the number of documents actually
27 containing relevant information is less than 37,000.

1 B. Data Base Search and ESI Issues.
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3 Production shall be made in native format; where documents have
4 previously been produced in other formats, they shall be produced again in native
5 format.

6 The Court believes that the Toyota defendants should disclose the
7 fields for each data base or reach agreement with the plaintiffs concerning the
8 fields to search. The Court has directed the parties to conduct further discussions
9 and to involve the Special Masters and their electronic discovery consultants in
10 those discussions.

11 The Court believes that for the most part, production should be made
12 via searches. However, the Court also believes that full production of the files for
13 specific individuals or key functions may also be appropriate. Any dispute as to
14 what files should be produced in full shall be submitted to the Special Masters.

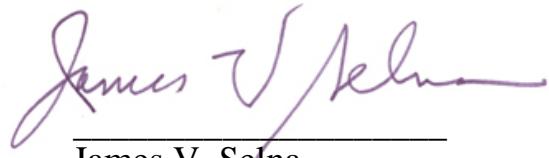
15 Disputes over what fields to produce shall be resolved by the Special
16 Masters. Disputes over what search terms to use shall be resolved by the Special
17 Masters. The Court understands that the parties have agreed to 260 terms.
18 Searches and production pursuant to those terms should commence now.

1 C. Protective Order.
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3 The Court will be issuing a protective order based on the parties'
4 submissions.

5 IT IS SO ORDERED.
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7 Dated: January 18, 2011
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10 James V. Selna
11 United States District Judge
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